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EXAMINER

TUCKER, PHILIP C

ART UNIT

PAPER NUMBER

1712

DATE MAILED: 10/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

855412

Applicant(s)

PAKULSKI

Examiner

P. TUCKER

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1 - 44 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 32 - 40 is/are allowed.
- ☒ Claim(s) 1 - 10, 12 - 18, 27 - 31, 41 - 44 is/are rejected.
- ☒ Claim(s) 11, 19 - 26 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 27-30 and 41-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 27 and 41, when $n=1$, the substance is not a polyglycolpolyamine.

In claims 28-30 and 42-44, there is no antecedent basis for "the water" therein, or in the parent claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

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(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1, 12 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Holtmeyer et al. (4964467).

Holtmeyer teaches a fracturing fluid which comprises methanol, a crosslinked polymer, a proppant, and possibly liquid carbon dioxide (See abstract, claims, column 5, lines 9-33). The methanol acts as a hydrate inhibitor (column 3, lines 38-46).

5. Claims 1, 12, 13, 16 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Mzik et al. (5874385).

Mzik teaches a fracturing fluid, used in the fracturing of subterranean formations, which comprises methanol, crosslinked guar, proppant, a pH buffering agent such as fumaric acid, and a gel breaker (see claims). The methanol acts as a hydrate inhibitor.

6. Claims 1, 14-17 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Chatterji et al. (5713416).

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Chatterji teaches a fracturing fluid which utilizing an acid and base, which forms a hot salt solution and controls the formation of gas hydrates (see example). Salts such as KCl and ammonium chloride are formed during the fracturing operations.

7. Claims 1 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by McGuire (4424866).

McGuire teaches a fracturing fluid, used to fracture a subterranean formation, which comprises a supersaturated salt composition, and a viscosifier (see claims).

8. Claims 1, 2, 4, 5, 12, 14-17 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Burns (4690219).

Burns teaches a fracturing fluid for fracture acidizing operations, which comprises an acid, an N-vinyl lactam copolymer, brine which may comprise KCl, and which may have a pH within the scope of the present invention (see claims and column 6, lines 10-14). Proppants may also be used in the fluid (column 2, lines 39-41). The N-vinyl lactam polymer would act as a gas hydrate controller.

9. Claims 1-3, 6-10, 13-18, 28 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Chang et al (6165947).

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Chang teaches a fracturing fluid which is used in fracturing operations, which comprises a HEC or guar crosslinked polymer, and comprises a clay stabilizer such as KCl, and methanol (see examples and claims). The methanol would act as a gas hydrate controller. The use of the methanol for a different reason than taught in the prior art is not a patentable difference (In re Lintner 173 USPQ 356, In re Mod 161 USPQ 281).

10. Claims 11, 19-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 32-40 are allowable over the art of record.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. Is 703-872-9311.

PCT-2646
September 30, 2002


PHILIP C. TUCKER
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